IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 24TH SEPTEMBER 2007 / 2ND ASWINA 1929

Bail Appl..No. 5752 of 2007()

CRIME NO.201/07 OF MANJESHWAR POLICE STATION
CRMP.1637/2007 of DISTRICT COURT, KASARAGOD

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PETITIONER/IST ACCUSED

AITHAPPA, AGED 35 YEARS, S/O.LATE
AMMU MOOLYA, DELANTHA MANJALU HOUSE,
MANILA VILLAGE, BANTWALA TALUK, D.K.DISTRICT,
KARNATAKA STATE.

BY ADV. SRI.M.RAMESH CHANDER

RESPONDENTS: RESPONDENT

STATE OF KERALA, REPRESENTED BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 24/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 5752 of 2007

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Dated this the 24th day of September, 2007

O R D E R

Application for anticipatory bail. The petitioner is the first accused. He is the husband of the defacto complainant. The marriage took place on 19.4.2006. The defacto complainant had filed a private complaint before the learned Magistrate, which was referred by the learned Magistrate to the police under Section 156(3) Cr.P.C. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. There is strain in the marital tie and on account of such strain, fanciful, false and exaggerated allegations are being made against the petitioner. The petitioner may be saved of the undeserved trauma of arrest and incarceration in prison, submits the learned counsel.

3. The learned Prosecutor does not oppose the application. I find the stand taken by the learned Prosecutor is absolutely reasonable. I am persuaded to agree that directions under Section

438 Cr.P.C. can be issued in favour of the petitioner. I take note of the reality that the arrest and incarceration of the petitioner is likely to mar all possibilities of reconciliation of marital relationship. Subject to appropriate conditions, anticipatory bail can be granted to the petitioner.

4. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioner shall surrender before the learned Magistrate on 1.10.2007 at 11 a.m. The learned Magistrate shall release the petitioner on regular bail on condition that he executes a bond for Rs.25,000/- (Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 2.10.07, and 3.10.2007 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of two months and subsequently as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioner does not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 1.10.07 and the

police shall be at liberty thereafter to arrest the petitioner and deal with him in accordance with law.

(d) If the petitioner were arrested prior to his surrender on 1.10.2007 as directed in clause (1) above, he shall be released on bail on his executing a bond for Rs.25,000/- without any surety undertaking to appear before the learned Magistrate on 1.10.2007.

(R. BASANT)
Judge

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